Section -1

Answer any 2 of the following questions in about 600 words. Each question carries 20 marks.

1. What do you understand by Judicial Review? What is its importance in the protection of Human Rights?

Ans: Judicial review is a process under which executive and (in some countries) legislative actions are subject to review by the judiciary. A court with judicial review power may invalidate laws and decisions that are incompatible with a higher authority; an executive decision may be invalidated for being unlawful or a statute may be invalidated for violating the terms of a written constitution. Judicial review is one of the checks and balances in the separation of powers: the power of the judiciary to supervise the legislative and executive branches when the latter exceed their authority. The doctrine varies between jurisdictions, so the procedure and scope of judicial review may differ between and within countries.

Judicial review can be understood in the context of two distinct—but parallel—legal systems, civil law and common law, and also by two distinct theories of democracy regarding the manner in which government should be organized with respect to the principles and doctrines of legislative supremacy and the separation of powers.

First, two distinct legal systems, civil law and common law, have different views about judicial review. Common-law judges are seen as sources of law, capable of creating new legal principles, and also capable of rejecting legal principles that are no longer valid. In the civil law tradition, judges are seen as those who apply the law, with no power to create (or destroy) legal principles.

Secondly, the idea of separation of powers is another theory about how a democratic society's government should be organized. In contrast to legislative supremacy, the idea of separation of powers was first introduced by Montesquieu; it was later institutionalized in the United States by the Supreme Court ruling in Marbury. Madison under the court of John Marshall. Separation of powers is based on the idea that no branch of government should be able to exert power over any other branch without due process of law; each branch of government should have a check on the powers of the other branches of government, thus creating a regulative balance among all branches of government. The key to this idea is checks and balances. In the United States, judicial review is considered a key check on the powers of the other two branches of government by the judiciary.

Human rights are important in the relationships that exist between individuals and the government that has power over them. The government exercises power over its people. However, human rights mean that this power is limited. States have to look after the basic needs of the people and protect some of their freedoms.

Some of the most important features of human rights are the following:

• They are for everyone.
• They are internationally guaranteed.
• They are protected by law.
• They focus on the dignity of the human being.
• They protect individuals and groups.
• They cannot be taken away

2. Analyse the emergence of the idea of Human Rights as it emerged during Bhakti and Sufi movements in India.

Ans: The Bhakti tradition also witnessed a parallel current in Sufism, which was an expression of the mystical Islam. Sufism stressed on a belief in a mystical union between the individual soul and God. This was in contrast to the orthodox emphasis on law and tradition. The appeal of the Sufi saints, particularly of the Chisti order was great among the poor because they emphasized care of the needy as a religious act.

The devotional Bhakti and the Sufi traditions (the first Sufi teacher, Khwaja Momuddin Chishti came to India in 1193) had much in common. In medieval north India, mysticism was the product of both the Bhakti movement and the tradition of Sufis. One important aspect of this mysticism was its complete independence from orthodox scriptures. These teachers practised and taught tolerance.